

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division**

JOHN HILL, #326359,

Petitioner,

v.

ACTION NO. 2:05CV15

GENE M. JOHNSON, Director of the
Virginia Department of Corrections,

Respondent.

FINAL ORDER

This matter was initiated by petition for a writ of habeas corpus under 28 U.S.C. § 2254.

The petition alleges violation of federal rights pertaining to petitioner's conviction for robbery, in the Circuit Court of Prince William County, as a result of which he was sentenced to serve twenty years (with six years suspended) in the Virginia penal system.

The matter was referred to a United States Magistrate Judge pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and (C) and Rule 72 of the Rules of the United States District Court for the Eastern District of Virginia for report and recommendation. Report of the Magistrate Judge was filed on June 2, 2005, recommending dismissal of the petition. By copy of the report, each party was advised of his right to file written objections to the findings and recommendations made by the Magistrate Judge. On June 15, 2005, the Court received petitioner's Motion of Objections.

The Court, having reviewed the record and examined the objections filed by the petitioner to the United States Magistrate Judge's Report, and having made de novo findings with respect to the portions objected to, does hereby adopt and approve the findings and recommendations set forth

in the Report of the United States Magistrate Judge filed June 2, 2005. It is, therefore, ORDERED that the petition be DENIED and DISMISSED, because petitioner's claims were never raised to the Virginia state courts and petitioner has shown no cause for failing to present the claims and no prejudice resulting therefrom, which this Court must find before considering the merits of the claims.

- . It is further ORDERED that judgment be entered in favor of the respondent.

Petitioner's renewed motion for evidentiary hearing (Document No. 12) is hereby DENIED

Petitioner Hill has failed to demonstrate "a substantial showing of the denial of a constitutional right," therefore, the Court declines to issue any certificate of appealability pursuant to Rule 22(b) of the Federal Rules of Appellate Procedure. See Miller-El v. Cockrell, 123 S.Ct. 1029, 1039 (2003).

Petitioner is hereby notified that he may appeal from the judgment entered pursuant to this Final Order by filing a written notice of appeal with the Clerk of this court, United States Courthouse, 600 Granby Street, Norfolk, Virginia 23510, within 30 days from the date of entry of such judgment.

The Clerk shall mail a copy of this Final Order to the petitioner and to counsel of record for the respondent.

/s/

Jerome B. Friedman
United States Magistrate Judge

Norfolk, Virginia

June 20, 2005